

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEPTEMBER 3, 1993

MEMORANDUM

SUBJECT: Anticipated Changes to Used Oil Regulations

FROM: Jeffery Denit, Acting Director  
Office of Solid Waste

TO: Waste Management Division Directors, Regions I-X

On September 10, 1992, EPA issued a final regulation establishing standards for the management of used oil destined for recycling (57 Fed. Reg. 41566). This memorandum is to notify you that the Office of Solid Waste is currently working on changes to these regulations which may affect the status of used oil which is inserted into the refining process at primary oil refineries as well as the status of certain used oil generators who also engage in the processing of used oil. Please share this information with the States in your Region, especially since a number of States have already embarked upon the process of making regulatory changes to mirror the September 1992 rules.

Background

On September 23, 1991, EPA proposed exemptions from the used oil management requirements (whether or not EPA ultimately listed used oil as a hazardous waste) for used oils that are reinserted as feedstocks at primary petroleum refineries and fuels derived from those used oils, and for used oils inserted into crude oil or natural gas pipelines (56 Fed. Reg. 48000, 48026, 48042).

On September 10, 1992, EPA promulgated management standards, codified at 40 CFR Part 279, for used oil under RCRA Section 3014. These standards covered used oil generators, transporters, processors, re-refiners, burners and marketers. The standards only included an exemption from the management standards for used oil placed directly in a crude oil pipeline. EPA did not address the other proposed exemptions for used oil inserted into the petroleum refining process both prior to and after crude distillation and catalytic cracking.

The American Petroleum Institute filed suit on December 8, 1992, and raised the issue that EPA had not addressed the proposed exemption for petroleum refining, production, and transportation in the September 10, 1992, final rule. API has agreed with EPA to delay submitting briefs to the court on its issues pending the issuance by January 30, 1994, of a revised rule to address these issues.

Edison Electric Institute (EEI) also filed suit on January 11, 1993, and charged that EPA's definition of the term "processing" in the September 10, 1992, rule could be construed to include operations involving their intra-company maintenance and servicing of oil-bearing electrical equipment.

#### Anticipated Rule

OSW has drafted a rule which would 1) amend the existing pipeline exemption to clarify its intended scope, and 2) expand the exemption to other petroleum refinery applications. The draft rule will be informally distributed to key interested parties for comment in early September. We plan to issue the rule in final form by January 30, 1994. Below we describe our current proposal which is, of course, subject to change in light of comments from interested parties or during the internal Agency review process.

As drafted, the rule amendment would clarify that the current exemption from the used oil management standards is intended to apply to used oil mixed with crude oil or natural gas liquids in pre-pipeline units (e.g., stock tanks, production separators) prior to being introduced into the crude oil pipeline. The rule amendment would further clarify that the used oil exemption includes used oil mixed with crude oil or natural gas liquids that are being held at remote locations and transported to the crude oil pipeline as long as the mixture is inserted into a petroleum refining process prior to crude distillation and catalytic cracking at a petroleum refining process. Prior to mixing used oil with crude oil or natural gas liquids, used oil would remain regulated under Part 279.

The draft rule would place restrictions on used oil inserted into the petroleum refining process after crude distillation and catalytic cracking operations. Used oil placed after crude distillation and catalytic cracking would be required to meet the used oil fuel specification in order to be eligible for the exemption.

The draft rule also would exempt from the Part 279 standards used oil that is incidentally captured by and recovered from a refinery's wastewater treatment system, if the recovered used oil is subsequently inserted into the petroleum refinery process.

In addition, the draft rule would amend the existing used oil transportation regulations to allow the transportation of used oil to a location where the used oil will be mixed with crude oil or natural gas liquids such that the used oil is exempt from regulation under the amended management standards.

Finally, the draft rule would also amend the existing used oil processing definition under Part 279 to exclude generators who only process used oil that is generated on-site and that is not being sent directly to a used oil burner.

### Implications for State Programs

As explained in the preamble to the May 3, 1993, Technical correction to the September 10, 1992, rule, EPA is treating the majority of the final used oil management standards in the same manner as "non-HSWA" Subtitle C requirements. The used oil management standards became effective on March 8, 1993, only in those States and Territories that do not have RCRA base program authorization and on Indian lands. States are required to revise their Subtitle C base programs to adopt the new used oil requirements by July 1, 1994, or July 1, 1995, if a statutory change is necessary. See 58 Fed. Reg. 26420 and 57 Fed. Reg. 41605. OSW understands that many States are already in the process of adopting used oil management standards equivalent to Part 279.

States which are considering regulations to incorporate the Part 279 standards may wish to delay action pending the issuance of the amendments to these regulations discussed above. Deferring action would enable the State counterparts to the Part 279 standards and corresponding exemptions to be promulgated by the States as a whole, thereby avoiding the confusion that would result from piecemeal adoption of the standards and exemptions. Of course, States are free to adopt the exemption as promulgated by EPA in September 1992, and then subsequently elect to adopt or not adopt the exemptions that EPA intends to issue in January, 1994.

The Administrator has not yet made a final decision on issuing these amendments nor on their exact content. Therefore, this letter constitutes only an advisory that changes are being seriously contemplated.

For further information regarding this memorandum, please contact Michaelle Wilson of the Special Programs Section at (202) 260-4669.